IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Writ Petition No. 143 (SB) of 2002

Maya Devi,
W/o late Sri Dalel Singh,
R/o Village – Manubas,
District – Hardwar. **……..Petitioner.**

Versus

1. Secretary Lokayukat, U.P. B - 1 / 124 Vishwas Khand – I, Gomti Nagar, Lucknow.
2. Deputy Director (Krishi Biparan Agriculture Viparan Directorate, U.P., Kishan Mandi Bhanwan, fourth floor, Vibhuti Khand, Gomti Nagar, Lucknow.
3. Assistant Agriculture Viparan Officer, Agra, (U.P.)

…….Respondents

Hon'ble M.M. Ghildiyal, J

Heard Sri A.K. Sharma, learned counsel for the petitioner and Smt. Beena Pandey, learned Standing Counsel for the State of Uttar Pradesh on behalf of respondent no. 1. No one is present on behalf of respondent nos. 2 and 3.

By means of this writ petition, the petitioner has prayed to issue a writ, order or direction in the nature of Mandamus commanding the respondents to pay family pension to the petitioner with effect from 09.11.1994 along with 18% interest.

The case of the petitioner is that husband of the petitioner Sri Dalel Singh died on 08.11.1994 while serving as Secretary, Krishi Utpadan Mandi Samiti, Ghiror, Mainpuri. After death of her husband, petitioner applied for the family pension, however, respondents did not pay any heed to the

request of the petitioner, consequently, she was constrained to file present writ petition for the aforesaid relief.

Respondent no. 3 has filed short counter affidavit wherein it stated that husband of the petitioner late Sri Dalel Singh was an employee of U.P. Agriculture Department and was initially working in the market division of the Agriculture Department since 07.02.1972. Krishi Utpadan Mandi Parishad and Mandi Samiti were established in pursuance to Krishi Utpadan Adhiniyam, 1964 and thereafter, in the year 1972 the husband of the petitioner was sent on deputation to various Mandi Samiti between 1972 and 1984.

On 01.08.1984, the services of the petitioner's husband were permanently absorbed in the then U.P. Mandi Parishad. Petitioner's husband was died on 08.11.1994 while working as Secretary, Krishi Utpadan Mandi Samiti, Ghiror, Mainpuri.

In paragraph 12 of the short counter affidavit respondents have submitted that since the husband of petitioner was permanently absorbed on 01.08.1984 in Mandi Parishad and there is no provision for family pension or pension for the employees of Mandi Parishad, therefore, petitioner is not liable to get any benefit of family pension or pension.

It is not disputed by the petitioner that the services of the petitioner's husband was absorbed in the year 1984 with the Mandi Parishad and further, petitioner could not show any provision relating to grant of family pension or pension to the employees of Mandi Parishad.

Petitioner has filed rejoinder affidavit. Petitioner has admitted that the services of the petitioner's husband were absorbed with Mandi Parishad on 01.08.1984 and nowhere has submitted that employees of the Mandi Parishad are entitled to get family pension or pension under any provision.

In para 13 of the rejoinder affidavit, petitioner has submitted that wife of late Sri Atma Ram, who is on same footing, is getting family pension from the Department.

Since petitioner has not disputed the fact that services of the petitioner's husband were absorbed with Mandi Samiti and there is no provision for pension or family pension for the employees of Mandi Samiti, consequently, this court cannot direct the respondents to repeat the wrong on the ground that wife of late Sri Atma Ram, who was on the same footing, as alleged by the petitioner is getting family pension.

It is well settled law that the court cannot issue direction to the respondents to repeat the wrong.

For the reason recorded above, writ petition is devoid of merit, as such, is dismissed. Stay application no. nil of 2002 is rejected accordingly. No order as to costs.

(M.M. Ghildiyal, J)

December 12, 2006
SKSharma